

COMCOR 19A.06.01 Regulations of Secondary Employment (Police)*

***Editor's note**—This regulation also implements Md. Code, Art. 27, § 729A.

19A.06.01.01 Policy

All Department of Police officers who desire secondary employment must comply with the procedures established in this regulation and will not engage in any employment outside the department without the written permission of the Chief of Police and approval from the County Ethics Commission, except while in the approval process. The Ethics Commission adopts and incorporates by reference Article 27 of the collective bargaining agreement between the county and the Fraternal Order of Police in regard to outside employment activities. Department of Police officers who are Fraternal Order of Police bargaining unit members should refer to Article 27 of the collective bargaining agreement regarding secondary employment policies and procedures.

19A.06.01.02 Definitions

- A. Employment: Any work, occupation, labor, or profession that results in compensation to the officer.
- B. Secondary Employment: Any employment not required by the Montgomery County Department of Police.
- C. Security-Related Secondary Employment: Any employment where the officer is hired for the express purpose of protecting the proprietary interests of the employer and can include protecting the employer, employees, or customers.
- D. Uniformed Security-Related Secondary Employment: Any employment where the officer is hired for the express purpose of protecting the proprietary interests of the employer and the officer wears a Montgomery County police uniform.
- E. Officer: Unless otherwise indicated, refers to a commissioned (sworn) police officer employed by the Department of Police who is the rank of sergeant and above.
- F. Employee: Refers to all Department of Police personnel, sworn and non-sworn.
- G. Department: Refers to the Montgomery County Department of Police.

19A.06.01.03 Officer Responsibilities

- A. The primary duty, obligation, and responsibility of every officer is to the Department of Police. Officers who are directed to work overtime, or are directed to report to work on their days off, will do so regardless of the fact that outside employment is approved. Outside employment should not become additional full-time employment.

B. If an officer of the Department of Police owns a business or is in charge of hiring personnel, including department employees and officers of any rank, the officer must disclose this information when application is made for secondary employment.

19A.06.01.04 Request Procedure

A. Approval from the Chief of Police, or designee, via a Secondary Employment Request (MCP 307), must be obtained by an officer prior to engaging in any outside employment. If the employment is security related, the officer will also submit an MCP 309, “Secondary Employer Agreement for Security-Related Work” prior to engaging in secondary employment.

B. Approval of both security-related and non-security-related secondary employment of a short, spontaneous, temporary duration that requires immediate acceptance by an officer may initially be granted by the officer's district or unit commander within not more than one business day. The MCP 309 must be completed prior to the officer working any security-related secondary employment. In every instance, the MCP 307 must be submitted as indicated in section IV.A,* above.

***Editor’s note**—see 19A.06.01.04.A

C. An approval request authorizes only such work and conditions as are specifically designated on the request form. Approval or denial will be determined in accordance with this regulation. In those instances where approval is granted, the officer may begin work. Approval will be granted as follows:

1. Indefinite Approval - Remains in effect until the work is completed or the officer or employer changes the status or nature of the work.
2. Twelve-Month Approval - Remains in effect for 12 months from the date of the Chief of Police's approval. Each officer will be notified, via memorandum, prior to the end of the 12-month approval period. To continue the secondary employment, the officer must submit a new request.
3. Limited Approval - Remains in effect until the employment is completed. This is used for short-term, temporary employment (i.e., one-day event).

D. Denial will be determined initially by the Chief of Police or designee.

E. The Chief of Police, or designee, will submit all requests to the Ethics Commission for approval. The Ethics Commission can approve or deny the request and will notify the applicant directly of its action. An officer may not work the secondary employment in question if denied by the Ethics Commission.

F. All approved secondary employment request forms submitted prior to the effective date of this regulation will remain in effect until their normal expiration unless

rescinded for other cause or prohibited by this regulation or by law; questions regarding secondary employment, approval status, or compliance with this regulation or the law may be directed to the Chief, Management Services Bureau.

19A.06.01.05 General Secondary Employment Restrictions

A. Officers shall not engage in any secondary employment which is in conflict with the Montgomery County Government and Department of Police.

B. Officers shall not engage in any outside employment which will adversely affect their ability to perform their duties.

C. Officers shall not engage in any outside employment which presents an unacceptable risk of disabling injury that would limit an officer's return to regular duty. "Unacceptable risk" means any risk that is greater than that required of a sworn officer generally.

D. Officers will not engage in secondary employment during the actual hours for which they are scheduled to work for the county, while on approved sick leave, FMLA, parental leave, disability leave, administrative leave, or professional improvement leave. Officers may not engage in secondary employment during any period while on sick leave, disability leave, and FMLA if the employment can be reasonably construed to delay or preclude full recovery and return to work.

E. Officers will not use any police equipment or exercise any police authority while engaged in secondary employment while their police powers are suspended.

F. Officers will not engage in secondary employment in any capacity for any business that sells, dispenses, or handles alcoholic beverages with the following exceptions: an officer may work for a store, motel, hotel, restaurant, country club, or similar establishment as a security person, desk clerk, or similar capacity, provided no part of the officer's specific duties are related to or involve the bar area where alcoholic beverages are sold or dispensed, the employment does not require "bouncer" duties, and the sale, dispensing, or handling of alcoholic beverages is not the primary business of the establishment.

G. No officer shall engage in business with the Montgomery County Government without first revealing their employment status with the county.

H. Except for uniformed security-related secondary employment, officers will not engage in secondary employment if the authority vested in them as a county employee is a requirement for obtaining or holding employment.

I. Officers will not divulge their association with the Department of Police in the course of their employment as a salesperson.

J. Except as provided in this regulation, officers may not be employed by, or have any ownership interest in, any business subject to the authority of, or doing business with, the police department.

K. No towing service owned and/or operated by off-duty Montgomery County Police officers, of any rank, or employees shall be used for towing of vehicles at the request of on-duty Montgomery County Police officers, of any rank, unless specifically requested by the owner or operator of the vehicle involved.

L. No officer of the department shall operate a school bus within six hours of completing a midnight shift.

M. Officers, in the performance of their secondary employment, will not take advantage of any services provided by the Department of Police unless in the performance of legitimate police action. Under the provisions of the CJIS Law, it is a violation to disseminate criminal record information to non-criminal justice agencies or to anyone when not in the scope of official business. Further, obtaining any information, criminal or non-criminal, can only be done in the same capacity as a private citizen when not for official police activity. Any deviation from this can subject the officer to liability.

N. Officers may not use confidential information gained in county employment for outside financial gain or for any purpose other than use in county employment.

O. Officers, while on duty, may not accept or solicit referrals for their secondary employment.

P. Officers will not distract or coerce other county employees during their scheduled work hours to buy or use products or services sold or offered as part of their secondary employment.

Q. Officers, in the performance of their secondary employment, are permitted to carry/utilize the following county equipment:

1. Weapons/Protective Instruments (carried in an inconspicuous manner unless uniformed):

- a. Handgun,
- b. OC spray,
- c. ASP baton, and
- d. Maglight flashlight.

2. Other:

- a. Portable radio,
- b. Ballistic vest,
- c. Handcuffs,
- d. MCP badge and credentials,
- e. PPV (to drive to job site), and
- f. Baseball cap (uniformed only).

3. Officers, except those prohibited from working uniformed security-related secondary employment in section VII.D,* may wear the brown patrol uniform and authorized issued equipment while engaged in uniformed security-related secondary employment and while going to and from the secondary employment site. If the uniform is worn, the entire uniform along with the Sam Browne belt, pistol, handcuffs, ASP, and portable radio must be worn by the officer.

***Editor's note**—see 19A.06.01.04.D

R. Officers are prohibited from working for any person(s) or any entity owned (at least 5% ownership) by a person, or persons, they supervise or who supervises them as part of their county employment.

19A.06.01.06 Security-Related Secondary Employment Restrictions

In addition to the restrictions listed in sections IV and V* of this regulation, the following restrictions apply to security-related secondary employment:

***Editor's note**—see [19A.06.01.04](#) and [19A.06.01.05](#)

A. No officer shall work in security-related secondary employment unless the officer has been employed by the Montgomery County Department of Police for at least one year.

B. When the officer determines that an offense report should be initiated, the officer will call an on-duty officer, of any rank, to take the report and initiate an investigation to the same extent as if a private citizen had called the police. This policy is not intended to prohibit an officer witnessing the commission of a crime from taking immediate and appropriate police action. However, once the situation is under control, the officer will call on-duty officers, as described above.

C. The officer will work only as a surveillance guard and, if the officer anticipates a situation where the presence of on-duty uniformed officers, of any rank, would have a calming or deterrent effect, they will be requested.

D. Security-related secondary employment shall be limited to duties customarily associated with those performed by a watchman or guard and shall not include background investigations or any form of investigative surveillance work related to any divorce, separation, or other domestic situation within Montgomery County.

E. No follow-up investigations of previously reported offenses will be handled by off-duty officers, and all information coming to their attention relating to such incidents will be reported to investigating officers, of any rank.

F. While on-duty with the department, the officer will show no preferential coverage to the place of the officer's secondary employment nor, while employed there off-duty, will the officer encourage visitation by on-duty officers and employees, of any rank.

G. Under no circumstances will an officer act as an intermediary between a particular employer and a group of employees employed as watchmen/security guards for the purpose of scheduling, coordinating, or any other similar activity unless the officer has first obtained the appropriate license from the Superintendent of the Maryland State Police, if such license is required.

H. Secondary Employer's Responsibilities

Officers will not be permitted to work security-related secondary employment unless the secondary employer agrees to:

1. Pay officers appearing in court on their day off or during non-regular scheduled working hours for civil incidents arising from off-duty employment activity.
2. Pay the officer by check showing proper deduction for Social Security, if required by law.
3. Provide Worker's Compensation Insurance coverage for the officer, if required by law.
4. Except for non-regular, occasional, or sporadic employment for a private individual, the secondary employer agrees to maintain a comprehensive general public liability insurance policy in a minimum amount of \$500,000, which will cover the officer against any and all claims and/or liability resulting from such employment.
5. Make no attempts to exert any influence regarding a police decision involving whether an arrest should be made.
6. Initiate all formal charges for trespassing and not let the officer initiate such charges.

7. Keep the agreement between the secondary employer and the county in force for the duration of the period specified in the agreement.

19A.06.01.07 Uniformed Security-Related Secondary Employment Restrictions

In addition to the restrictions listed in sections IV, V, and VI of this regulation, the following restrictions apply to uniformed security-related secondary employment:

A. Officers are authorized to work uniformed secondary employment only within the boundaries of Montgomery County, Maryland, where the police department normally provides police service. Uniformed secondary employment is prohibited within the City of Takoma Park.

B. Officers may work secondary employment in uniform only as a watchman or surveillance guard or as provided in paragraph F of this section.

C. Officers will not engage in secondary employment where there is a potential conflict of interest between the officer's duties as a police officer and duties for the officer's outside employer.

D. Uniformed secondary employment is prohibited if the officer's police powers are suspended or revoked.

E. Uniformed secondary employment is prohibited in the following circumstances:

1. An officer is under the influence of alcohol or drugs.
2. It is probable that on-duty officers, of any rank, would respond as a result of a demonstration, protest march, sit-in, labor/management dispute, or mass arrest situation.
3. The officer is on leave status identified in section V.D* or in a leave without pay status.

***Editor's note**—see [19A.06.01.05.D](#)

4. The secondary employment establishment sells, distributes, or serves alcoholic beverages.

5. Gambling is occurring in the secondary employment establishment (other than the sale of state lottery tickets by the secondary employer).

6. Uniformed secondary employment must be terminated immediately upon notice to the officer by an appropriate supervisor, that the secondary employer, official of

the employing company, or an employer's supervisor becomes the subject of a law enforcement investigation or enforcement action other than a petty offense or traffic charge.

7. Officers may only work uniformed secondary employment on the premises of their secondary employer or on property immediately adjacent to the secondary employer's property.

8. Officers are only authorized to work secondary employment in uniform a maximum of 16 hours in a 40-hour workweek. Days off are excluded.

9. Officers are prohibited from working uniformed secondary employment for debt collectors, private process servers, skip tracers, employers engaged in repossessing property, employers doing pre-employment investigations, bail bonding agencies, employers engaging in the towing of vehicles, and employers engaged in the security guard, private investigator, or private detective business.

F. Officers may work, in a uniformed secondary employment capacity, as a traffic control officer on private property as long as their actions do not take place on, or interfere with, public right-of-ways. Exceptions to this restriction are secondary employment situations where a permit has been issued by the Department of Public Works and Transportation that allows for traffic control on public right-of-ways.

G. In the event the department develops the capability to retain and monitor such information, officers engaging in uniformed security-related secondary employment may be required to immediately notify the Emergency Communications Center at the beginning and end of the work period indicating the employer and the duty location.

19A.06.01.08 Cancellation of Employment

A. Any officer who ceases or cancels secondary employment will forward an MCP 307 to the Chief, Management Services Bureau, if the approval was for an indefinite period of time or if approval was for 12 months and it has not expired. Only Part IV, "Cancellation," of the MCP 307 should be completed.

B. Officers who wish to work secondary employment must comply with these regulations. The Chief of Police has the authority to cancel permission, temporarily or permanently, of any officer engaged in secondary employment who violates these regulations. Officers may not work any secondary employment without the required approvals.

19A.06.01.09 Compliance

All officers who wish to work secondary employment must comply with these regulations and the Chief of Police may discipline any officer who fails to comply with these regulations.

19A.06.01.10 Effective Date

This regulation becomes effective on May 16, 2000

(Administrative History: Reg. No. 8-00 (Method 2); Dept.: Police)